



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
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MAY 15 2008

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SER08-22

Mr. John Williams
Executive Director
Southern Shrimp Alliance
P.O. Box 1577
Tarpon Springs, Florida 34688

John
Dear Mr. ~~Williams~~.

Thank you for your letter of April 11, 2008, which requested a clarification regarding proposed operator permit requirements for all federally permitted fisheries in the Gulf of Mexico. Specifically, your letter asked if the Gulf of Mexico Fishery Management Council (Council) could preclude NOAA General Counsel from assessing penalties against the owner of a federally permitted fishing vessel, and restrict penalty assessments to the operator who committed the violation.

The Magnuson-Stevens Fishery Conservation and Management Act (MSA) indicates the Secretary of Commerce (Secretary) may take action against a vessel, the owner, or the operator, collectively and individually. Therefore, in response to your questions identified above, it is beyond the Council's authority to specifically preclude NOAA General Counsel, acting on behalf of the Secretary, from taking action against the owner or permit holder of a vessel found to have been used in the commission of an act prohibited under the MSA. However, the MSA also gives the Secretary some discretion. The Secretary may take into account the nature, circumstances, extent, and gravity of the prohibited act(s), and with respect to the violator, the degree of culpability, any prior offenses, and the ability of the violator to pay.

You also asked whether information on federal fishery violators could be made available to vessel owners via NOAA Fisheries Service's Web site. Currently, the NOAA General Counsel Office for Enforcement and Litigation, Southeast Region, produces a quarterly report of Notices of Violation and Assessment (NOVAs) and another report on NOVA Settlements. These reports are available through the Freedom of Information Act, and pertinent portions of this information could be made available on our Web site. Providing such a list of violators, in lieu of an operator card, does not actually address the overall intent of the operator card, but it would provide vessel owners with information about operators.

To request a copy of these reports, please contact me or Dr. Steve Branstetter, Gulf Branch Chief, Southeast Regional Office, at (727) 824-5305.

Sincerely,

Roy E. Crabtree, Ph.D.
Regional Administrator

